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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 97-034

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. It is suggested that the acronym “USDOT” in s. Trans 177.03 (1) (a) be replaced with the full phrase. [See s. 1.01 (8), Manual.]

b. The word “shall” in s. Trans 177.07 (1) should be replaced with the word “may.” [See s. 1.01 (2), Manual.]

c. In s. Trans 177.07 (2) (intro.), “all of the following” should precede the colon.

d. In s. Trans 177.09 (1) (intro.), “any of the following exist” should replace “the carrier” before the colon and each subsequent paragraph should begin with “The carrier” This will clarify that not all four conditions must be met in order for an authority or a permit to be revoked or suspended.

4. Adequacy of References to Related Statutes, Rules and Forms

a. Section Trans 177.05 contains references to ss. 180.54 and 180.827, Stats. These statutory sections do not exist. The department should replace them with the correct statutory references.

b. The word “subsection” in s. Trans 177.10 (4) should be replaced with the word “section.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. It is suggested that the word “their” in s. Trans 177.03 (1) (a) be replaced with the phrase “the applicant’s.”

b. It is suggested that the term “as a carrier” be placed after the word “authorized” in s. Trans 177.04. The department should review ch. Trans 177 and make similar revisions wherever appropriate.

c. The first sentence of s. Trans 177.05 will be clearer if it read in a manner similar to the following: “If the name of a corporation that is authorized as a carrier under ch. 194, Stats., is changed, the corporation shall file the articles of amendment or restated articles of incorporation with the department. Also, it is unclear, maybe because the statutory references to ss. 180.54 and 180.827, Stats., are inaccurate, what is meant by filing the articles of amendment or restated articles of incorporation with “the financial institution.” The department should clarify this ambiguity. In addition, it is suggested that the phrase “certificate or license of” be placed prior to the word “authority” in both the second and third sentences of s. Trans 177.05.

d. Section Trans 177.06 states that when the holder of a certificate or license or any “right or privilege” dies, the certificate holder’s personal representative, heirs or surviving spouse shall notify the department. The department should more clearly define what is meant by the term “right or privilege.”

e. In ss. Trans 177.06 and 177.07 (2) (b) and (3), it is suggested that the word “the” be substituted for the word “such.” [See s. 1.01 (9) (c), Manual.]

f. In s. Trans 177.07 (1) (e), the department should attempt to be clearer concerning what types of restrictions must be included in the written lease for a power unit. In addition, the word “A” should precede the material in s. Trans 177.07 (2) (f) and this paragraph should also be redrafted to clarify what is meant by the statement that a lessee is “fully responsible” to the public and the shippers.

g. In s. Trans 177.08, it is suggested that the phrase “an acceptable request” be replaced with the phrase “a request that complies with this section.”

h. Section Trans 177.09 (4) should be redrafted to more clearly specify which department “determinations” may be appealed to the Division of Hearings and Appeals.

i. In s. Trans 177.10 (1), it is suggested that the word “with” should be replaced with the word “using.”